



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

November 23, 2020

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Golfphin Arthur**
Tax Registry No. 938578
Fleet Services Division
Disciplinary Case Nos. 2017-17617, 2018-19012,
2018-19572, 2019-21383

The above named member of the service appeared before Assistant Deputy Commissioner Nancy R. Ryan on July 21, 2020, and was charged with the following:

DISCIPLINARY CASE NO. 2017-17617

1. Said Police Officer Arthur Golfphin, on or about May 30, 2017, while assigned to the 13th Precinct, failed to obey a lawful order, to wit: During a Departmental interview, Officer Golfphin was instructed not to continue working off-duty employment until he received Department permission and he failed to obey this order and continued working off-duty without permission.

P.G. 203-03, Page 1, Paragraph 2

COMPLIANCE WITH ORDERS

2. Said Police Officer Arthur Golfphin, on or about and between June 14, 2016 and November 2, 2017, failed to obtain permission from the Department for off-duty employment as a security guard for Safe Environment Business Solutions.

P.G. 205-40

OFF DUTY EMPLOYMENT

DISCIPLINARY CASE NO. 2018-19012

1. Said Police Officer Arthur Golfphin, currently assigned to PSA 2, on or about and in between March 1, 2018 and May 1, 2018, in New York State, did fail and neglect to maintain a current New York State driver's license and notify his commanding officer, with pertinent details, when license is suspended, revoked or not renewed.

P.G. 203-03, Page 1, Paragraph 5

COMPLIANCE WITH ORDERS

2. Said Police Officer Arthur Golfphin, currently assigned to PSA 2, on or about April 24, 2018, in Kings County, did fail and neglect to comply with a lawful order given by New York City Police Department Sergeant Vance Merrick to not drive his vehicle until his license was reinstated.

P.G. 203-03, Page 1, Paragraph 2

COMPLIANCE WITH ORDERS

DISCIPLINARY CASE NO. 2018-19572

1. Said Police Officer Arthur Golfphin, on or about September 24, 2018, while off-duty, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: Said Police Officer Golfphin altered a temporary New Jersey license plate and utilized said forged instrument on his vehicle and drove through a toll plaza without paying for said toll.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT -
PROHIBITED CONDUCT**

2. Said Police Officer Arthur Golfphin, on or about September 24, 2018, while off-duty, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: Said Police Officer Golfphin operated a motor vehicle without proper vehicle insurance.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT -
PROHIBITED CONDUCT**

3. Said Police Officer Arthur Golfphin, on or about September 24, 2018, while off-duty, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: Said Police Officer Golfphin possessed a duplicate New York Police Department shield.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT -
PROHIBITED CONDUCT**

DISCIPLINARY CASE NO. 2019-21383

1. Said Police Officer Arthur Golfphin, while on-duty and off-duty, currently assigned to Housing PSA 2, on or about and between May 30, 2017 and December 3, 2019, failed to obey a lawful order, to wit: during a Departmental interview, Officer Golfphin was instructed not to continue working off-duty employment until he received Department permission and he failed to obey this order and continued working off-duty without permission.

P.G. 203-10, Page 1, Paragraph 2

COMPLIANCE WITH ORDERS

2. Said Police Officer Arthur Golfphin, while on-duty and off-duty, while assigned to Housing PSA 2, on or about and between January 15, 2012 and December 3, 2019, failed to obtain permission from the Department for off-duty employment as a promoter to multiple comedy venues.

P.G. 205-40

OFF DUTY EMPLOYMENT

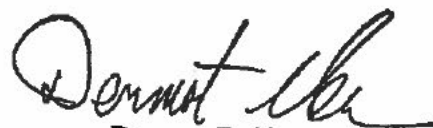
In a Memorandum dated September 1, 2020 Assistant Deputy Commissioner Nancy R. Ryan found Police Officer Arthur Golfphin Guilty of all subject charges in Disciplinary Case Nos. 2017-17617, 2018-19012, 2018-19572, and 2019-21383, having entered a plea of Guilty to all. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

I have considered the totality of the circumstances and issues concerning the misconduct for which Police Officer Golfphin has been found Guilty and deem that separation from the Department is warranted. However, instead of an outright dismissal from the Department, I will permit an alternative manner of separation from the Department for Police Officer Golfphin at this time.

While the misconduct committed herein is serious in nature, the proposed penalty of an outright dismissal is not warranted given the mitigating factors present in this case. Specifically, Police Officer Golfphin has no prior formal disciplinary history and has an excellent sick record.

It is therefore directed that an *immediate* post-trial settlement agreement be implemented with Police Officer Golfphin in which he shall forfeit thirty (30) suspension days without pay to be served, be placed on one (1) year dismissal probation, forfeit all time and leave balances, and immediately file for vested-interest retirement.

Such vested-interest retirement shall also include Police Officer Golfphin's written agreement to not initiate administrative applications or judicial proceedings against the New York City Police Department to seek reinstatement or return to the Department. If Police Officer Golfphin does not agree to the terms of this vested-interest retirement agreement as noted, this Office is to be notified without delay. This agreement is to be implemented **IMMEDIATELY**.



Dermot F. Shea
Police Commissioner

September 1, 2020

-----X

In the Matter of the Charges and Specifications	:	Case Nos.
- against -	:	2017-17617
Police Officer Arthur Golfphin	:	2018-19012
Tax Registry No. 938578	:	2018-19572
Fleet Services Division	:	2019-21383

-----X

At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Nancy R. Ryan
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Javier Seymore, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: Peter Brill, Esq.
Brill Legal Group, P.C.
306 5th Ave., Penthouse
New York, NY 10001

To:

HONORABLE DERMOT F. SHEA
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

CHARGES AND SPECIFICATIONS

Disciplinary Case No. 2017-17617

1. Said Police Officer Arthur Golphin¹, on or about May 30, 2017, while assigned to the 13th Precinct, failed to obey a lawful order, to wit: During a Departmental interview, Officer Golphin was instructed not to continue working off-duty employment until he received Department permission and he failed to obey this order and continued working off-duty without permission.

P.G. 203-03, Page 1, Paragraph 2

COMPLIANCE WITH ORDERS

2. Said Police Officer Arthur Golphin, on or about and between June 14, 2016 and November 2, 2017, failed to obtain permission from the Department for off-duty employment as a security guard for Safe Environment Business Solutions.

P.G. 205-40

OFF DUTY EMPLOYMENT

Disciplinary Case No. 2018-19012

1. Said Police Officer Arthur Golphin, currently assigned to PSA 2, on or about and in between March 1, 2018 and May 1, 2018, in New York State, did fail and neglect to maintain a current New York State driver's license and notify his commanding officer, with pertinent details, when license is suspended, revoked or not renewed.

P.G. 203-03, Page 1, Paragraph 5

GENERAL REGULATIONS –
COMPLIANCE WITH ORDERS

2. Said Police Officer Arthur Golphin, currently assigned to PSA 2, on or about April 24, 2018, in Kings County, did fail and neglect to comply with a lawful order given by New York City Police Department Sergeant Vance Merrick to not drive his vehicle until his license was reinstated.

P.G. 203-03, Page 1, Paragraph 2

GENERAL REGULATIONS –
COMPLIANCE WITH ORDERS

Disciplinary Case No. 2018-19572

1. Said Police Officer Arthur Golphin, on or about September 24, 2018, while off-duty, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: Said Police Officer Golphin altered a temporary New Jersey license plate and utilized said forged instrument on his vehicle and drove through a toll plaza without paying for said toll.

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT

¹ The charges and specifications for *Disciplinary Case Nos. 2017-17617 & 2019-21383* spell Respondent's last name as "Golphin." However, consistent with Department records and directories, his last name is spelled "Golfphin" throughout this decision.

2. Said Police Officer Arthur Golfphin, on or about September 24, 2018, while off-duty, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: Said Police Officer Golfphin operated a motor vehicle without proper vehicle insurance.

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT

3. Said Police Officer Arthur Golfphin, on or about September 24, 2018, while off-duty, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: Said Police Officer Golfphin possessed a duplicate New York Police Department shield.

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT

Disciplinary Case No. 2019-21383

1. Said Police Officer Arthur Golphin, while on-duty and off-duty, currently assigned to Housing PSA 2, on or about and between May 30, 2017 and December 3, 2019, failed to obey a lawful order, to wit: during a Departmental interview, Officer Golphin was instructed not to continue working off-duty employment until he received Department permission and he failed to obey this order and continued working off-duty without permission.

P.G. 203-10, Page 1, Paragraph 2

COMPLIANCE WITH ORDERS

2. Said Police Officer Arthur Golphin, while on-duty and off-duty, while assigned to Housing PSA 2, on or about and between January 15, 2012 and December 3, 2019, failed to obtain permission from the Department for off-duty employment as a promoter to multiple comedy venues.

P.G. 205-40

OFF DUTY EMPLOYMENT

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on July 21, 2020.

Respondent, through his counsel, entered a plea of Guilty to the subject charges, and testified in mitigation of the penalty. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, I find that no mitigation is warranted and recommend that Respondent be DISMISSED from the Department.

ANALYSIS

Respondent testified that he has been a member of the Department for 15 years. For 13 of those years, he was assigned to traffic safety in the 13 Precinct. He also served in the Army, including on active duty and in the reserves, for 23 years. (Tr. 12-16) The following is a summary of Respondent's testimony in mitigation of the penalty.

With regard to the charges for *Disciplinary Case No. 2017-17617*, Respondent admitted that, as charged, for the period of time from June 14, 2016, to November 2, 2017, he failed to obtain permission from the Department for off-duty employment as a security guard. Respondent testified that he did put in "paperwork" to work this off-duty job, but the "paperwork...expired." He claimed that he had not been aware that the paperwork must be renewed every year. (Tr. 17-19, 49)

With regard to Specification 1 of the same set of charges, Respondent admitted that during a GO-15 on May 30, 2017, he was told by Sergeant Fortunato, that he should stop working until the off-duty employment paperwork had been sorted out, but that he continued working off-duty without permission. He testified that when he returned to the precinct after receiving the order, he simply forgot to put the new paperwork in. He further testified that he never did any type of off-duty employment that would have been *per se* prohibited by the Department. (Tr. 19-20, 40-41, 49)

In *Disciplinary Case No. 2018-19012*, Respondent is charged with failing to maintain a New York State driver's license from approximately March 1, 2018, to May 1, 2018, and failing to notify his commanding officer of this lapse. He is further charged with failing to comply with a lawful order given by Sergeant Merrick to not drive his vehicle until his license was reinstated. Respondent testified that when Sergeant Merrick notified him that his driver's license was

suspended he went to "Brooklyn motor vehicle" and got documentation indicating that his license was not suspended on that date. Respondent later became aware that his license had in fact been suspended for some period of time due to a bounced check. During the time his license was suspended, Respondent had a conversation with Sergeant Merrick wherein Sergeant Merrick told him not to drive his vehicle. Respondent subsequently drove his car from one side of the street to the other side before he had someone pick him up to drive him home. Respondent is not aware of how long he drove his vehicle while his license was suspended. (Tr. 21-24, 50-51, 53)

Disciplinary Case No. 2018-19572 contains three specifications concerning Respondent's actions on September 24, 2018. He is charged with altering a license plate on his car and then using that altered plate to drive through a toll without paying, failing to have proper insurance on that vehicle and possessing a duplicate Department shield. Respondent admitted to the charged misconduct and testified that he was having financial difficulties during this time period. He had been modified and couldn't work any off-duty jobs and also wasn't receiving any steady overtime. He had a son who lived with the boy's mother and Respondent tried to help financially with his son's needs. The mother wanted to move with the son and she wanted to take Respondent to court. He was able to get a loan from a cousin, but he let his car insurance lapse as he missed the final date to make a payment. (Tr. 17, 24-32, 56)

Respondent testified that he takes responsibility for altering the license plate, which he did by using tape to change the number six to the number eight, and acknowledged that "it wasn't a wise decision." His purpose in changing the number was to avoid paying tolls. He doesn't know how many times he went through a toll plaza with the altered plate. He further stated he "wasn't thinking straight" and that it was the worst mistake he ever made. He was

charged with, and pled guilty to, a misdemeanor for using the altered plate. He received a conditional discharge. (Tr. 29-32, 56-59)

Finally, *Disciplinary Case, No. 2019-21383* contains two specifications relating to off-duty employment. The off-duty employment referred to in this case is Respondent's work as a promoter at comedy venues from approximately January 15, 2012, to December 3, 2019. He is charged with failing to obtain permission for this work. He is also charged with failing to obey an order not to continue working off-duty employment, which was given to him on or about May 30, 2017; this is the same order referred to in Specification 1 of *Disciplinary Case No. 2017-17617*.

Respondent admitted his guilt, and testified that he had set up a business through which he operated a barbershop and a comedy promotion venture. While acknowledging he received the order to refrain from off-duty employment, he thought at the time that his business corporation, where he had other people working for him, was different from the security guard position he held, where he was an employee. He testified that with his business venture, he was risking his own money and while he could have made money from it, he didn't, because he had to pay the people working the event. He did not put in any paperwork with the Department regarding this business because he didn't regard it as employment. Respondent claims that if he had been specifically told in May of 2017 that the corporate business constituted off-duty employment, he would not have continued it. After the rules were explained to him, he now understands that the corporate business he owned is considered employment. (Tr. 33-42, 46-48, 63-64)

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on July 11, 2005. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Department, in requesting that a penalty of dismissal from the Department be imposed in this case, argued that the totality of the charges in this case necessitated Respondent's termination from the Department. The Department Advocate noted that there are three separate incidents where Respondent failed to follow orders. In addition to the insubordination, there is also the case where Respondent's actions resulted in a misdemeanor guilty plea. The Department further argued that Respondent's creation and use of a forged instrument to avoid paying a toll is the equivalent of a theft, which supports the Department's position that Respondent can no longer be a police officer.

Respondent's position is that while he is aware he needs to be penalized for his actions, the penalty should be something short of dismissal from the Department. Respondent testified that he loves his job and acknowledged that these incidents were bad mistakes in judgment. He asked that he be given a second chance to move past his mistakes and show his true worth to law enforcement. (Tr. 44-45)

Based on a review of the evidence in this case and case precedent, I agree with the Department and recommend that Respondent be dismissed from the Department. While these charges, standing alone, may not warrant dismissal, the totality of the misconduct makes it clear that termination is the appropriate penalty here. Respondent has four separate cases and his misconduct must be considered collectively. Respondent has flouted the Department's rules

concerning off-duty employment in two separate cases and for extended periods of time (over a year in *Disciplinary Case No. 2017-17617* and for close to eight years in *Disciplinary Case No. 2019-21383*). His reasons for doing so, either that he just forgot to renew the paperwork in one case, or he was unsure of what constituted employment in the other case, do not mitigate this misconduct. It is clear in Patrol Guide § 205-40 that the applicant is to submit a renewal application for continuing off-duty employment beyond each twelve-month period and is to do so at least ten days prior to the expiration of the applicant's current, approved request. The Patrol Guide also anticipates a situation where the applicant is part or sole owner of a corporation, such as Respondent's barbershop and comedy promotion corporation, and lists instructions for how such an application should be filled out. Respondent is responsible for knowing the requirements set forth in the Patrol Guide. Certainly, if he had any questions, he could have made inquiries during the course of the many years he was in violation of the Department's rules and regulations.

In addition to failing to follow the application and permission rules concerning off-duty employment, Respondent disobeyed a direct order from a supervisor, Sergeant Fortunato, concerning that employment. He was ordered on May 30, 2017, to cease his off-duty employment until he had obtained permission to work, and yet he continued to work as a security guard without that permission through November 2, 2017 (*Disciplinary Case No. 2017-17617*). Respondent's excuse that he forgot to submit the correct paperwork, after being told he was required to submit it, might have explained a delay of a day or two; however, a period of disobedience exceeding five months is more indicative of an intentional failure to follow a direct order from a supervisor. In his other case involving off-duty employment (*Disciplinary Case No. 2019-21383*), Respondent again disobeyed the order from Sergeant Fortunato when he

continued to run his corporate business from May 30, 2017, the date of the order, until December 3, 2019.

Respondent also chose to disobey the order of a second supervisor, Sergeant Merrick, when he drove his car without a license (*Disciplinary Case No. 2018-19012*). In this situation, not only did Respondent fail to comply with the Patrol Guide requirement that an officer maintain a valid New York State driver's license (P.G. § 203-03), but he also acted in defiance of the direct order from his supervisor. Respondent testified that his license was suspended because he bounced a check, which is a more of an aggravating, rather than a mitigating, factor. Also, not only is it a very basic requirement of his job to maintain a valid driver's license, but Respondent, being assigned to traffic duties for years, is expected to have a heightened awareness of all vehicle and traffic laws and should have known that it was unlawful for him to drive without a license. Additionally, it is important to note that Respondent was also caught driving a vehicle without proper insurance (*Disciplinary Case No. 2018-19572*). Having become aware of his lapsed license, it seems Respondent should have paid very close attention to the licensing and insurance requirements before allowing his insurance to lapse and then driving a vehicle with lapsed insurance.

In addition to disobedience of orders from supervisors and failure to comply with off-duty work requirements, Respondent intentionally altered a license plate (*Disciplinary Case No. 2018-19572*) and then used it to, in effect, commit theft of services by going through a toll plaza without paying the toll.

I reject defense counsel's argument that it is significant that Respondent pled guilty to [REDACTED] as opposed to the creation of one.² Respondent admitted before this tribunal that he did in fact create a forged government instrument when he testified that he used tape to change a number on a license plate. Respondent did plead guilty to a misdemeanor stemming from those actions. This act of altering the plate demonstrates that Respondent was willing to actively take steps to deceive a government authority. The act of using the plate to obtain financial gain, even if it was just the one time proven in this case, demonstrates that Respondent willfully stole services. As set forth in recent cases, an act of theft is inherently dishonest and on its own warrants separation from the Department (*Disciplinary Case No. 2014-12548* [Dec. 22, 2015] [Nine-year police officer with no disciplinary record dismissed from the Department for stealing \$101.47 worth of merchandise from a Target shopping center and possessing said merchandise; *Disciplinary Case No. 2016-16428* [May 8, 2019] [Nineteen-year police officer with prior discipline directed to retire on modified assignment, after being found guilty of (i) stealing a sweatshirt from a Costco store and (ii) possessing said stolen property, and pleading guilty to (iii) engaging in off-duty employment at Costco for a five-month period without Department approval]).

Respondent is guilty of disobeying orders from two different supervisors over three occasions and failing to comply with the off-duty work requirements for lengthy periods of time. Even more significantly perhaps, he has admitted he altered and then used a forged government instrument to commit a theft of services. Neither deceiving a government authority nor committing a theft can be tolerated for a member of service. An officer must be able to be

² While both counsel referred to Respondent pleading [REDACTED] in either their opening or summation, the actual plea agreement was not introduced into evidence at trial.

trusted and be counted on to obey orders from superiors and to be credible in carrying out their duties and presenting themselves as witnesses if called upon. Respondent, through his actions, has failed to meet this standard. Based on the totality of the misconduct in this case, the Court recommends that Respondent be DISMISSED from the Department.

Respectfully submitted,

Nancy Ryan *RM*

Nancy R. Ryan
Assistant Deputy Commissioner Trials





POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER ARTHUR GOLFPIN
TAX REGISTRY NO. 938578
DISCIPLINARY CASE NOS. 2017-17617, 2018-19012,
2018-19572, & 2019-21383

Respondent was appointed to the Department on July 11, 2005. On his last three annual performance evaluations, he received 4.0 overall ratings of "Highly Competent" for 2015 and 2016 and a 4.5 overall rating of "Highly Competent/Extremely Competent" for 2014. [REDACTED]

Respondent has no formal disciplinary history. In connection with the instant Charges and Specifications, he was placed on Level 2 Discipline Monitoring on March 9, 2018; that monitoring remains ongoing.

For your consideration.

Nancy Ryan KM
Nancy R. Ryan
Assistant Deputy Commissioner Trials